

PROCEEDINGS AGAINST CARLOS MARCELLO FOR CONTEMPT OF THE SENATE

FEBRUARY 21 (legislative day, JANUARY 29), 1951.—Ordered to be printed

Mr. KEFAUVER, from the Special Committee To Investigate Organized Crime in Interstate Commerce, submitted the following

REPORT

[To accompany S. Res. 78]

The Special Committee To Investigate Organized Crime in Interstate Commerce as created and authorized by the United States Senate by Senate Resolution 202, Eighty-first Congress, second session, caused to be issued a subpoena to Carlos Marcello of Gretna, La. The said subpoena directed Carlos Marcello to be and appear before the said committee on January 25, 1951, at 9:30 a. m., at their committee room 245, Main Post Office Building, New Orleans, La., then and there to testify touching matters of inquiry committed to said committee and not to depart without leave of said committee. The date of issuance of the subpoena was the 13th day of January 1951. Attendance pursuant to said subpoena was had on January 25, 1951, at which time the witness appeared. The subpoena served upon said Carlos Marcello is set forth as follows:

MAR NO. 813 CR

UNITED STATES OF AMERICA

CONGRESS OF THE UNITED STATES

TO CARLOS MARCELLO, 320 Roman Street, Gretna, La., Greeting:

Pursuant to lawful authority, you are hereby commanded to appear before the Committee to Investigate Organized Crime in Interstate Commerce of the Senate of the United States, on January 25, 1951, at 9:30 o'clock a. m., at their committee room 245, Main Post Office Building, New Orleans, La., then and there to testify what you may know relative to the subject matters under consideration by said Committee. And bring with you all books, records, and supporting documents relating to your income and disbursements from January 1, 1944 to date; all records relating to assets and/or interest in property, either real, personal, or mixed; or interest in legal entities during the aforesaid period; and copies of federal income tax returns during the aforesaid period.

Hereof fail not, as you will answer your default under the pains and penalties in such cases made and provided.

To United States Marshal, New Orleans, La., to serve and return.

Given under my hand, by order of the committee, this 13th day of January, in the year of our Lord one thousand nine hundred and fifty-one.

ESTES KEFAUVER,

Chairman, Committee to Investigate Organized Crime in Interstate Commerce.

The said subpoena was duly served as appears by the return made thereon by Joseph Burglass, deputy United States marshal, who was duly authorized to serve the said subpoena. The return of the service by the said Joseph Burglass, being endorsed thereon, is set forth as follows:

JANUARY 19, 1951.

I made service of the within subpoena by handing same in person to the within-named Carlos Marcello, at 335 Huey P. Long Ave., Gretna, La., at 10:15 o'clock a. m., on the sixteenth day of January 1951.

LOUIS F. KNOP, Jr.,
United States Marshal,
By JOSEPH BURGGLASS, Deputy.

The said Carlos Marcello pursuant to said subpoena and in compliance therewith, appeared before the said committee to give such testimony as required by virtue of Senate Resolution 202, Eighty-first Congress, second session. Carlos Marcello having appeared as a witness and having been asked questions, which questions were pertinent to the subject matter under inquiry, made answers as appeared in the records of the hearing on January 25, 1951, at room 245 Main Post Office Building, New Orleans, La., which record is annexed hereto and made a part hereof and designated "Annex I." The said Carlos Marcello having appeared as a witness arbitrarily refused to produce the books and records called for in the subpoena set forth above.

As a result of said Carlos Marcello's refusal to produce books and records and refusal to answer the questions pursuant to the said inquiry propounded to Carlos Marcello pertinent to the subject matter which under Senate Resolution 202, Eighty-first Congress, second session, the said committee was instructed to investigate, and the refusal of the witness to produce books and records and to answer questions as set forth in annex I, is a violation of the subpoena under which the witness was directed to appear and produce books and records and to answer pertinent questions to the subject under inquiry, and his persistent and illegal refusal to answer the aforesaid questions and to produce books and records deprived the committee of necessary and pertinent testimony and places this witness in contempt of the United States Senate.

The subcommittee hearing at which said witness refused to produce books and records and to answer said questions was duly authorized by a resolution of the said committee, as set forth below:

SPECIAL COMMITTEE TO INVESTIGATE ORGANIZED CRIME IN INTERSTATE COMMERCE

MINUTES OF A COMMITTEE MEETING, DECEMBER 22, 1950

At an executive session of the committee held on December 22, 1950, the following resolution was adopted:

Resolved, That the chairman of this committee be and hereby is authorized at his discretion to appoint one or more subcommittees of one or more Senators, of whom one member shall be a quorum for the purpose of taking testimony and all other committee acts, to hold hearings at such time and places as the chairman might designate, in furtherance of the committee's investigations of organized crime, in the vicinities of the cities of Tampa, Fla., and New Orleans, La.

ESTES KEFAUVER, *Chairman*.
HERBERT R. O'CONOR.
LESTER C. HUNT.

In accordance with the resolution of December 22, 1950, the chairman designated himself as a subcommittee of one to swear witnesses and to hear testimony at New Orleans, La., on January 25 and 26, 1951.

After reviewing the testimony and other facts as set forth herein, the committee adopted a resolution, as set forth below:

SPECIAL COMMITTEE TO INVESTIGATE ORGANIZED CRIME IN INTERSTATE
COMMERCE

MINUTES OF A COMMITTEE MEETING, JANUARY 29, 1951

The committee met at 2:30 p. m., in the District of Columbia committee room. There were present the chairman and Senators Hunt, O'Connor, Tobey, and Wiley. The chairman presented to the committee the minutes of the committee meeting of January 25 and 26, 1951, together with a resolution made on December 22, 1950. The chairman stated to the committee that the chairman had designated a subcommittee to hear continued testimony in connection with organized crime in the city of New Orleans, La., pursuant to the resolution of December 22, 1950, the subcommittee consisting of the chairman.

The chairman then presented to the committee the minutes of said subcommittee meeting of January 25 and 26, 1951, held in room 245, Main Post Office Building, New Orleans, La.

The chairman stated to the committee that the witness, Carlos Marcello, repeatedly, consistently, and arbitrarily had refused to produce books and records and to answer questions put to him throughout counsel and chairman's examination of said witness on January 25, 1951, and that his refusal therefore was improper and contemptuous.

The chairman presented to the committee a draft report on the entire matter for the committee's consideration and the committee duly adopted the said report and instructed the chairman to present said report to the United States Senate.

Therefore, upon motion of Senator O'Connor, duly seconded by Senator Tobey, it was duly resolved that the committee present to the United States Senate, for its immediate action, a resolution requiring the United States attorney for the eastern district of Louisiana to proceed against the said Carlos Marcello in the manner and form provided by law.

ANNEX I

INVESTIGATION OF ORGANIZED CRIME IN INTERSTATE
COMMERCE

UNITED STATES SENATE,
SPECIAL COMMITTEE TO INVESTIGATE
ORGANIZED CRIME IN INTERSTATE COMMERCE,
New Orleans, La., January 25, 1951.

The committee met at 9:30 a. m., Thursday, January 25, 1951, in room 245, Main Post Office Building, Senator Estes Kefauver (chairman) presiding.

Present: Senator Kefauver.

Also present: Downey Rice, Esq., associate counsel; Alfred M. Klein, associate counsel; George Martin, investigator; and Ralph W. Mills, investigator.

STATEMENT OF CARLOS MARCELLO, 800 BARATARIA BOULEVARD, MARRERO, LA.

(William C. Orchard, Esq., and G. Wray Gill, Esq., appeared on behalf of the witness.)

MR. ORCHARD. At the outset, Your Honor, I am going to make the objection that there is no quorum present of this committee and we object to proceeding any further.

THE CHAIRMAN. All right, Mr. Orchard, your objection has been made and it will be overruled.

MR. ORCHARD. And we are proceeding under protest. I am going to make the further statement to the court that my client is going to refuse to produce any documents under a subpoena or refuse to testify on the ground that it might tend to incriminate him, or as not pointing to the subject of this inquiry.

Mr. GILL. And that his records are personal to himself; that they are not corporate records or statements. They are only his personal records or those involved possibly with his brother.

The CHAIRMAN. All right, we note your objection, gentlemen.

Mr. RICE. Now, sir, will you state your name for the record?

Mr. MARCELLO. Carlos Marcello.

Mr. RICE. Where do you live, Mr. Marcello?

Mr. MARCELLO. 800 Barataria Boulevard.

Mr. RICE. In what community?

Mr. MARCELLO. Marrero.

The CHAIRMAN. I didn't understand the town or the city you live in.

Mr. MARCELLO. Marrero.

Mr. GILL. M-a-r-r-e-r-o: Marrero.

Mr. RICE. Are you appearing here in response to a subpoena, Mr. Marcello?

Mr. MARCELLO. Yes. [Prompted by counsel.]

The CHAIRMAN. Of course, we are glad to have you here, gentlemen, but let's not prompt the witness on his answers. You have a seat, Mr. Gill.

Mr. RICE. Now, sir, do you have a copy of that subpoena with you?

Mr. MARCELLO. Yes.

The CHAIRMAN. Let the subpoena be copied into the record and made an exhibit at this point. The subpoena for Carlos Marcello, which has been duly served.

(The document was made a part of the record and is on file with the committee.)

Mr. RICE. Now, in part the subpoena says, "to appear and bring with you books, records and supporting documents relating to your income and disbursements since January 1, 1944, to date, all records relating to assets and/or interest in property, either real, personal, or mixed; or interest in legal entities during the aforesaid periods; and copies of Federal income-tax returns during the aforesaid period." Do you have those copies?

Mr. ORCHARD. Your Honor, I submit the subpoena speaks for itself and is the best evidence of itself.

The CHAIRMAN. All right. Counsel was reading the subpoena.

Mr. RICE. Do you have those documents?

Mr. MARCELLO. With due respect to the committee, I am going to refuse to answer any and all questions other than my name and place of residence on the ground that the answer might tend to incriminate me and I refuse to produce any documents, records, or paper on the ground that they might tend to incriminate me.

Mr. RICE. Let the record indicate that the witness is reading from a document.

May I ask you where were you born?

The CHAIRMAN. Let's find out who wrote the document.

Mr. MARCELLO. I refuse to answer the question on the ground that it might incriminate me.

The CHAIRMAN. The Chair orders you to answer the question. You are ordered to answer the question. Just say you either will or you decline; one or the other.

Mr. MARCELLO. I don't understand.

The CHAIRMAN. Well, you refuse to answer but I order you to answer. Will you follow the order of the Chair?

Mr. RICE. Will the reporter repeat the question, please?

The reporter read the last question.

The CHAIRMAN. Just say you will answer it or you won't answer it; one or the other.

Mr. MARCELLO. I refuse to answer the question on the ground it might intend to criminate me.

The CHAIRMAN. And you refuse to follow the direction of the Chair in ordering you to answer it? "Yes" or "no". I have ordered you to answer the question. Will you follow the direction of the Chair?

Mr. MARCELLO. I refuse to answer the question on the ground it might intend to criminate me.

The CHAIRMAN. All right.

Mr. RICE. Now, then, do you feel that the answer would incriminate you in connection with a Federal or State offense?

Mr. MARCELLO. Not being an attorney I wouldn't know.

Mr. RICE. Do you feel that the answer would incriminate you of a Federal or a State offense? Please answer the question.

The CHAIRMAN. He said he didn't know.

Mr. MARCELLO. Not being an attorney I wouldn't know.

Mr. RICE. Then, you do not have an offense in mind?

Mr. MARCELLO. I refuse to answer the question on the ground that it might intend to criminate me.

Mr. RICE. You then refuse to answer whether or not you have a particular offense in mind?

Mr. MARCELLO. I refuse to answer the question on the ground that it might intend to criminate me.

Mr. RICE. Will the Chair direct the witness to answer the question?

The CHAIRMAN. The Chair directs you to answer that question.

Mr. Counsel, of course the procedure is that when he refuses to answer, the technicality is that it is my duty if I think he should answer, then I shall order him to answer.

Mr. ORCHARD. Yes, sir.

The CHAIRMAN. In all these matters, unless I indicate to the contrary, if it can be understood, where he refuses to answer that the Chair has ordered him to answer and that where he refuses to follow the direction of the Chair, then, we will get along faster. Will that be understood by you?

Mr. ORCHARD. Yes, sir.

The CHAIRMAN. Will it be understood by you, Mr. Marcello?

Mr. ORCHARD. You understand it?

Mr. GILL. Yes, sir.

The CHAIRMAN. Do you understand that?

Mr. MARCELLO. No, sir, I don't.

The CHAIRMAN. Well, then we had better just go along as we are going.

Mr. KLEIN. Maybe his counsel can clear it up for him.

(Witness confers with his counsel.)

The CHAIRMAN. Does he understand the matter?

Mr. ORCHARD. Yes, sir.

The CHAIRMAN. That is, where you refuse to answer, unless I indicate to the contrary, you will assume that the chairman of the committee has ordered you to answer and that you refuse to follow the order of the Chair. Do you understand that?

Mr. MARCELLO. Yes, sir.

Mr. GILL. Would you permit me to make a statement? In fairness to the witness before the court, this man, his name has been in the newspapers. I mean continuously from day to day, sir. His name was mentioned by Mayor Morrison this morning, and apparently this man is more or less considered, according to the newspapers, as one of the prime factors to be investigated here; and we wish to say at the outset, with all due respect for the committee, that the objection that we made we would like to extend to every question propounded to this witness as though it were repeated, to avoid the necessity of repetition, and at the outset that his refusal is not based upon any disrespect of the committee, but one question leading from one to another might not of itself be a matter that would tend to incriminate him, but might form a link in a chain of circumstances or evidence. We make that statement.

The CHAIRMAN. In other words, Mr. Gill, where he says "I refuse to answer" you want it understood for the record that his refusal to answer is on the grounds which he has read here: that he thinks it might tend to incriminate him.

Mr. GILL. That is correct, sir, not only of itself, but it will form a link in a chain. We make that statement to Your Honor so—

The CHAIRMAN. So that he doesn't go through the routine every time of saying "I refuse to answer on the ground that it might incriminate me."

Mr. GILL. That is correct, sir, and also that the general answer at the incipency of the questioning will be understood by Your Honor as applying to every question, more or less, that will be asked him so Your Honors will not consider he is in contempt, if you should hold him in contempt more than once and not a multiplicity of counts.

The CHAIRMAN. Well, of course, I think we should make it clear, sir, that the statute authorizes a sentence of 1 year for each contempt.

Mr. GILL. I appreciate that, sir.

The CHAIRMAN. It is in the discretion of the judge who hears the case, in the event there is a conviction, to say whether they run consecutively or concurrently. So if they should find Mr. Marcello guilty and find him guilty of 50 contempts, it would be in the discretion of the judge whether it would be 1 year or whether it would be 50 years.

Mr. GILL. I am not assuming at the outset that you will cite him for contempt at all, Senator, but should a contempt citation be issued or suggested in your sincere judgment, we are stating at the outset that we feel that having expressed himself at the beginning of the hearing that it is only fair that further question-

ing not be had of him at this time, or at any other time in connection with the subject matter at hand, particularly because it doesn't seem like it would be fair to continue to ask him questions merely for the purpose of getting the same answer that you know now, more or less, will be repeated, and thereby adding up multiplicity of counts to the defendant over which he has no control.

The CHAIRMAN. Well, sir, I appreciate your point of view, but there are many matters we will today and tomorrow want to ask Mr. Marcello about. Maybe his counsel and he might change his mind about answering some of them.

Go ahead, Mr. Rice.

Mr. RICE. Now, sir, is there an indictment pending against you?

Mr. MARCELLO. I refuse to answer the question on the ground it may tend to incriminate me.

The CHAIRMAN. It is understood here the Chair has ordered him to answer and he refuses to follow the orders of the Chair.

Mr. GILL. Yes, sir.

Mr. ORCHARD. That is correct.

Mr. RICE. Does the transaction which you refuse to answer in the previous questions, involve yourself or others?

Mr. MARCELLO. I refuse to answer the question on the ground that it might tend to incriminate me.

Mr. RICE. Did the transaction about which you have in mind occur within the past year?

Mr. MARCELLO. I refuse to answer the question on the ground it might tend to incriminate me.

Mr. RICE. Did it occur 10 years ago?

Mr. MARCELLO. I refuse to answer the question on the ground it might intend to criminate me.

Mr. RICE. Are there any special circumstances which you would like to supply which would furnish you a reason for refusing to answer?

Mr. MARCELLO. I refuse to answer the question on the ground that it might intend to criminate me.

Mr. RICE. Do you have a criminal record?

Mr. MARCELLO. I refuse to answer the question on the ground that it might tend to incriminate me.

Mr. RICE. Now, sir, you take the position of having a criminal record would incriminate you?

Mr. MARCELLO. I refuse to answer the question on the ground that it might tend to incriminate me.

Mr. RICE. Where were you born?

Mr. MARCELLO. I refuse to answer the question on the ground that it might tend to incriminate me.

Mr. RICE. How old are you?

Mr. MARCELLO. I refuse to answer the question on the ground that it might tend to incriminate me.

Mr. RICE. How much education do you have?

Mr. MARCELLO. I refuse to answer the question on the ground that it might tend to incriminate me.

Mr. RICE. Do you have any education?

Mr. MARCELLO. I refuse to answer the question on the ground that it might tend to incriminate me.

Mr. RICE. Are you married?

Mr. MARCELLO. I refuse to answer the question on the ground that it might tend to incriminate me.

Mr. RICE. Are you a citizen?

Mr. MARCELLO. I refuse to answer the question on the ground that it might intend to criminate me.

Mr. RICE. Are you an alien?

Mr. MARCELLO. I refuse to answer the question on the ground that it might tend to incriminate me.

Mr. RICE. You may inquire, Senator.

The CHAIRMAN. Were you arrested in 1929 as an accessory before and after the fact on an assault and robbery of the Canal Bank at Algiers, La.?

Mr. MARCELLO. I refuse to answer the question on the ground that it might tend to incriminate me.

The CHAIRMAN. That was in 1929? Do you think that something which happened in 1929 might incriminate you?

Mr. MARCELLO. I refuse to answer the question on the ground that it might tend to incriminate me.

Mr. CHAIRMAN. Were you arrested and given from 9 to 14 years on robbery, assault and robbery, in 1930?

Mr. MARCELLO. I refuse to answer the question on the ground that it might tend to incriminate me.

The CHAIRMAN. Mr. Counsel, may I call your attention to the fact that if he did get convicted he is already incriminated of that offense, wasn't he?

Mr. GILL. If Your Honor please, might I ask Your Honor a question? I don't want to seem out of line. This man has been indicted in the public press, time and time again beginning with Mr. Drew Pearson's accounts which appeared in screaming headlines all over the Nation and apparently based, in my humble opinion, upon no proof whatsoever. Might I ask your committee, sir, as to what you gentlemen would like to know from this witness, and if we can be apprised of that fact it may be that he would answer? As it is, this man is coming before you gentlemen, trained investigators have prepared material for you gentlemen, and you gentlemen are experts at the investigation that you are conducting, and I don't mean that in any suave manner, I mean it sincerely. This man may answer a question unwittingly that may form a link in a chain of interstate connection or circumstances that may cause him to be charged in the parish tomorrow, not as the result of the testimony but if a person's name is used that person could be a witness and the district attorney's office is represented here in the courtroom today. Doubtless, the district attorney's office is represented here from Jefferson as well as Orleans, where he has whatever operations he might have and inasmuch as that is true, if this man were to make an admission concerning any gambling operation, if he has gambling operations—

The CHAIRMAN. Mr. Gill, your point is that you want us to state for the record, some of the things that we had in mind asking him about. Is that what you would like to know?

Mr. GILL. Yes, sir, some of the things you'd like to know. You have practiced law, and I know very well, and you would want to know, I am sure, if the case were yours, just what your client was called upon to say. What you wanted to know—

The CHAIRMAN. Well, I think that is—

Mr. GILL. Because I practice criminal law and I know that even though they couldn't use the testimony of this court, and anything that was said here, if the name of Jim Jones or some other name was mentioned as a person or witness the district attorney can send for that man and send this man to jail.

The CHAIRMAN. Let's just say that we will put in the record, and furnish Mr. Gill and Mr. Marcello, quite a number of pages of Mr. Kiley's investigative report pertaining to Mr. Marcello, which will be made a part of the record at this point and that these are the things that we have in mind asking him about.

Mr. GILL. Yes, sir.

The CHAIRMAN. Let me have a clip.

Let's let this be as exhibit 2 to the testimony of Mr. Marcello, and this purports to give his criminal record, questions about his interests in certain operations, certain corporations, where he was born, and what he has been into. Do you have a copy that you can give to him? Will you get these same pages and give Mr. Gill the same pages? I want Mr. Gill to have a copy of that.

Mr. KILEY. Kiley's report.

The CHAIRMAN. That being the case, that will give you an opportunity of looking it over and seeing it.

Mr. Kiley, will you see that these same pages are furnished to Mr. Gill?

Mr. KILEY. Yes.

The CHAIRMAN. I wanted to ask this: The report we have here shows that Mr. Marcello had stock or an interest in some corporations. I ask you if you did have stock or if you do have any part of the ownership of certain corporations?

Mr. ORCHARD. All right.

The CHAIRMAN. What is your answer?

Mr. MARCELLO. I refuse to answer the question on the ground it might intend to incriminate me.

The CHAIRMAN. Do you know, or have you ever had interest in the Dixie Coin Machine Co.?

Mr. MARCELLO. I refuse to answer the question on the ground that it may intend to incriminate me.

The CHAIRMAN. The Jefferson Music Co.?

Mr. MARCELLO. I refuse to answer the question on the ground that it may intend to incriminate me.

The CHAIRMAN. The B. Robertson Distributing Co.?

Mr. MARCELLO. I refuse to answer that question on the ground that it might tend to incriminate me.

The CHAIRMAN. The Beverly Club?

Mr. MARCELLO. I refuse to answer the question on the ground that it might tend to incriminate me.

The CHAIRMAN. Fogarty's News Service?

Mr. MARCELLO. I refuse to answer the question on the ground that it might tend to incriminate me.

The CHAIRMAN. New Southport?

Mr. MARCELLO. I refuse to answer the question on the ground that it might tend to incriminate me.

The CHAIRMAN. Louisiana Mint Co.?

Mr. MARCELLO. I refuse to answer the question on the ground that it might tend to incriminate me.

The CHAIRMAN. Nick's Oaks, in Jefferson Parish, La.?

Mr. MARCELLO. I refuse to answer the question on the ground that it might tend to incriminate me.

The CHAIRMAN. Club Plaza in Kenner, La.?

Mr. MARCELLO. I refuse to answer the question on the ground that it might tend to incriminate me.

The CHAIRMAN. Tregle's Dreamland Barroom, Jefferson Parish, La.?

Mr. MARCELLO. I refuse to answer the question on the ground that it might tend to incriminate me.

The CHAIRMAN. Louisiana Quick Freeze & Storage Co., Morgan City, La.?

Mr. MARCELLO. I refuse to answer the question on the ground that it might tend to incriminate me.

The CHAIRMAN. Sea Shrimp Co., Patterson, La.?

Mr. MARCELLO. I refuse to answer the question on the ground that it might tend to incriminate me.

The CHAIRMAN. The Billionaire's Club, Huey Long Avenue?

Mr. MARCELLO. I refuse to answer the question on the ground that it might tend to incriminate me.

The CHAIRMAN. The Bank Gambling Club, Gretna, La.?

Mr. MARCELLO. I refuse to answer the question on the ground that it might tend to incriminate me.

The CHAIRMAN. Avenue Bar, Gretna, La.?

Mr. MARCELLO. I refuse to answer the question on the ground that it might tend to incriminate me.

The CHAIRMAN. Al's Bar or Phil's Cafe at Harvey, La.?

Mr. MARCELLO. I refuse to answer the question on the ground that it might tend to incriminate me.

The CHAIRMAN. Seamen's Cafe, Harvey, La.?

Mr. MARCELLO. I refuse to answer the question on the ground that it might tend to incriminate me.

The CHAIRMAN. Ivy's Place, Harvey, La.?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to incriminate me.

The CHAIRMAN. Midway Inn, Marrero, La.?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to incriminate me.

The CHAIRMAN. Wildswood Tavern?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to incriminate me.

The CHAIRMAN. Foret's Rest, Jefferson Parish, La.?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to incriminate me.

The CHAIRMAN. Gay Paree, Westwego, La.?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to incriminate me.

The CHAIRMAN. Club Regent, Gretna, La.?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to incriminate me.

The CHAIRMAN. A taxicab company at Algiers, La.?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to incriminate me.

The CHAIRMAN. Shangri La, at Gretna, La.?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to incriminate me.

The CHAIRMAN. Do you hold a mortgage on Gretna Seafood, Gretna, La., in the amount of \$12,000 or any other amount?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to incriminate me.

The CHAIRMAN. Nelson's Roof Terrace in Gretna, La.?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to incriminate me.

The CHAIRMAN. Texas Tavern, Harvey, La.?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to incriminate me.

The CHAIRMAN. Did I ask you whether you received any income from B. Robertson Distributing Co., Baronne Street, New Orleans, La.?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to incriminate me.

The CHAIRMAN. We understand the reason you give for refusing to answer.

Do you have any interests or receive any income from handbooks and wire service from Jefferson Parish?

Mr. MARCELLO. I refuse to answer the question on the ground that it might tend to incriminate me.

The CHAIRMAN. Do you own any property on Roman Street in Gretna, La.?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to incriminate me.

The CHAIRMAN. Do you have any interests in Texas Tavern, Harvey, La.?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to incriminate me.

The CHAIRMAN. All right, if you want to ask him any questions.

Mr. RICE. Yes. Have you engaged in any business enterprises with G. Ray Gill?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to incriminate me.

Mr. RICE. Do you know Joseph Poretto?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to incriminate me.

Mr. RICE. Are you engaged in an oil enterprise in the Pickens Field with Joseph Poretto?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to incriminate me.

The CHAIRMAN. Do you have any interest in a slot machine parts factory about to be built in Louisiana?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to incriminate me.

The CHAIRMAN. Do you know Jake Jockey Pinello?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to incriminate me.

The CHAIRMAN. Are you engaged in any business enterprise with Jockey Pinello?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to incriminate me.

The CHAIRMAN. Are you in the slot machine business with Jock Pinello?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to incriminate me.

The CHAIRMAN. Do you know Beauregard Miller?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to incriminate me.

The CHAIRMAN. Do you know Frank Clancy?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to incriminate me.

The CHAIRMAN. Let me ask, have you ever heard of any of these people?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to incriminate me.

The CHAIRMAN. Have you ever heard of any of these companies or businesses that I asked you about?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to incriminate me.

The CHAIRMAN. Did you ever read about them in the newspapers?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to incriminate me.

The CHAIRMAN. Have you ever been outside of the State of Louisiana?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to incriminate me.

Mr. RICE. Did you have an interest in the wire service operation of Poretto in 1946?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to incriminate me.

Mr. RICE. Do you have an interest in the wire service business now?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to incriminate me.

Mr. RICE. Do you have an interest in the Club Forrest?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to incriminate me.

The CHAIRMAN. As I understand the situation, then, Mr. —All right, Mr. Rice.

Mr. RICE. Have you ever heard of the Unione Siciliane?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to incriminate me.

Mr. RICE. Have you ever heard of the Mafia?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to incriminate me.

Mr. RICE. Did you attend a meeting at the Black Diamond Night Club in 1947?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to incriminate me.

Mr. RICE. Have you attended a meeting at the Wildwood Tavern with Frank Costello?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to incriminate me.

Mr. RICE. At the Black Diamond Night Club did you attend a meeting on May 5, 1947, with the following people—

Mr. ORCHARD. I am going to suggest if counsel is going to testify let him be sworn. He is testifying who was at a meeting that he probably don't have any knowledge of.

The CHAIRMAN. Well, if he says he wasn't at the meeting, why, then that's that. But counsel has got to ask questions. The offender here, I think, I am sorry to say, Mr. Orchard, is Mr. Marcello.

Mr. ORCHARD. I would like my objection entered.

The CHAIRMAN. All right, you have your objection in the record.

Mr. RICE. Did you attend a meeting at the Black Diamond Night Club on May 5, 1947, with Henry Muller?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to incriminate me.

Mr. RICE. Joseph Capro?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to incriminate me.

Mr. RICE. M. J. Pecorn?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to incriminate me.

Mr. RICE. Charles Ricks?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to incriminate me.

Mr. RICE. Tom Rizzuto?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to incriminate me.

Mr. RICE. Vincent, Joseph, Anthony, Jake and Nick Marcello?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to incriminate me.

Mr. RICE. Any of the following, and permit me to ask you these before you answer: G. J. Robes, Frank Lobardino, Mel Melancon, Nick Grifazzi, Alexander Cardona, Felix Valdez, Frank P. Coppola, George Loveland, John Moreno, Jr., Joseph Hebert, Webster Blakely, Percy Wilson, Thomas Norton Johnson, or Salvatore J. Marcianti?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to incriminate me.

Mr. RICE. Do you know Frank Costello?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to incriminate me.

Mr. RICE. Do you know Joseph Almerico?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to incriminate me.

Mr. RICE. Did you ever have a shooting scrap with Joseph Almerico?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to incriminate me.

Mr. RICE. In front of the Hadacol Club at 1314 Canal Street?

Mr. GILL. If it please Your Honor, these questions, while they might defame and degrade the witness, I don't believe are pertinent to the scope of the inquiry, for which the resolution was passed. I object to that form of questioning, may it please Your Honor.

The CHAIRMAN. Well, having read the memoranda relative to this inquiry and knowing something of the alleged connections with some of these people with what we are inquiring about, I am afraid I will have to say that they are pertinent.

Mr. GILL. Your Honor will note the objection.

The CHAIRMAN. Yes, sir.

Mr. GILL. Thank you, sir.

Mr. ORCHARD. I note an objection, too.

Mr. RICE. Do you deal with Al Robinson in business?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to criminate me.

Mr. RICE. Do you have any business association with Johnny Bertuccia of the Dixie Coin Co., Gulfport, Miss.?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to criminate me.

Mr. RICE. Do you have an interest in the National Finance Co.?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to criminate me.

Mr. RICE. Have you ever heard of the National Finance Co. of Biloxi, Miss.?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to incriminate me.

Mr. RICE. Do you have an interest in Jerome's Gymnasium?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to incriminate me.

Mr. RICE. Do you know Jerome Comforto?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to incriminate me.

Mr. RICE. Do you have any money invested in any legitimate enterprises?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to incriminate me.

Mr. RICE. Were you born in Tunis, Africa?

Mr. MARCELLO. I refuse to answer the question on the ground that it may intend to criminate me.

Mr. RICE. Have you served time in Louisiana State Penitentiary?

Mr. MARCELLO. I refuse to answer the question on the ground that it may intend to criminate me.

Mr. RICE. Have you ever been convicted of a narcotic violation?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to criminate me.

Mr. RICE. Have you ever been convicted for armed robbery?

Mr. MARCELLO. I refuse to answer the question on the ground that it may intend to criminate me.

Mr. RICE. Have you any interest in a liquor store?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to criminate me.

Mr. RICE. Do you know Sam Carollo?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to criminate me.

Mr. RICE. Do you know Anthony Carollo?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to criminate me.

Mr. RICE. Did you provide an automobile to Sam Carollo for his return from California?

Mr. MARCELLO. I refuse to answer the question on the ground that it may intend to criminate me.

Mr. RICE. Do you know Salvatore Vittali?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to criminate me.

Mr. RICE. Have you entertained him at dinner at the restaurant of Vic Longo?

Mr. MARCELLO. I refuse to answer the question on the ground that it may intend to criminate me.

Mr. RICE. At that time, did you entertain, also, Anthony Saragusa and Vic Longo?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to incriminate me.

Mr. RICE. Now, sir, do you have a telephone?

Mr. MARCELLO. I refuse to answer the question on the ground that it may intend to criminate me.

Mr. RICE. Do you know Phil Kastel?

Mr. MARCELLO. I refuse to answer the question on the ground that it may intend to criminate me.

Mr. RICE. Do you have any interest in the Beverly Club?

Mr. MARCELLO. I refuse to answer the question on the ground that it may intend to criminate me.

Mr. RICE. Do you know Roy Palopinta?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to criminate me.

Mr. RICE. Do you know Louis Battalamente?

Mr. MARCELLO. I refuse to answer the question on the ground that it may intend to criminate me.

Mr. RICE. Did you ever make a statement that you had an interest of between forty and fifty thousand dollars in the Beverly Club?

Mr. MARCELLO. I refuse to answer the question on the ground that it may intend to criminate me.

Mr. RICE. Did you ever make a statement that you had bought the new Southport Club from Vic Trapani at a cost of between 160 thousand or a 165 thousand?

Mr. MARCELLO. I refuse to answer the question on the ground that it may intend to criminate me.

Mr. RICE. Did you ever say that you ever had a thousand dollars invested in the La-Quick Freeze in Morgan City, La.?

Mr. MARCELLO. I refuse to answer the question on the ground that it may intend to criminate me.

Mr. RICE. Did you ever say that you owned the building but not the business at 1410 Monroe Street, Gretna, La.?

Mr. GILL. If Your Honor please, in fairness to the witness, the gentleman is asking questions I think it should be said to whom and where, and not just say "Did you ever say." He should ask him who, where, and when it was said.

The CHAIRMAN. Well, in 1948.

Mr. RICE. On or about October 1948, did you make any of those statements to anyone?

Mr. MARCELLO. I refuse to answer the question on the ground that it may intend to criminate me.

Mr. RICE. Did you say that you owned outright Phil's Cafe, 508 Destrehan Street, Harvey?

Mr. MARCELLO. I refuse to answer the question on the ground that it may intend to criminate me.

Mr. RICE. Do you own your home?

Mr. MARCELLO. I refuse to answer the question on the ground that it may intend to criminate me.

Mr. RICE. Where is your home?

Mr. MARCELLO. I refuse to answer the question on the ground that it may intend to criminate me.

Mr. RICE. Haven't you previously answered where you live?

Mr. GILL. If Your Honor please—

Mr. RICE. Have you answered where you live?

Mr. GILL. If Your Honor please, if the gentleman knows that, I submit it should not be asked this witness.

The CHAIRMAN. Well, I can't understand why—

Mr. RICE. It is a discrepancy; he says he—

Mr. GILL. For a count of contempt. Several questions have been asked him, twice, or several times, about his arrests.

Mr. RICE. We are entitled to a second refusal.

Mr. GILL. I ask, Your Honor, to note my objection.

The CHAIRMAN. Yes; we do. We note it.

Mr. RICE. Now, sir, have you answered where you live?

Mr. MARCELLO. 800 Barataria Boulevard.

Mr. RICE. Do you own that home?

Mr. MARCELLO. I refuse to answer the question. It might intend to criminate me.

Mr. RICE. Did you say that you held the mortgage on a house of Joseph Macalussa?

Mr. MARCELLO. I refuse to answer the question on the ground that it may intend to criminate me.

Mr. RICE. Do you hold a mortgage on the house of Joseph Macalussa?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to incriminate me.

Mr. ORCHARD. Your Honor, I think the question should be when and where and not just a fishing expedition, just going all over the city of New Orleans and parishes.

The CHAIRMAN. Apparently, if he had owned a mortgage on somebody's home he'd be pretty likely to know about it, even a big businessman; I suppose he is one. He must know what it is about because he thinks it's going to incriminate him to tell.

Mr. ORCHARD. I would like my objection to be noted that it is not pertinent.

The CHAIRMAN. All right. We note the objection.

Mr. RICE. Have you ever had a mortgage on Shangri La, 400 Monroe Street, Gretna?

Mr. MARCELLO. I refuse to answer the question on the ground that it may intend to criminate me.

Mr. GILL. I'd like, Your Honor, to note that question has already been asked, too.

The CHAIRMAN. Did I ask that question?

Mr. GILL. Someone did, I don't remember who.

The CHAIRMAN. I think I asked him if he had an interest in it.

Mr. ORCHARD. Yes; I think it was a different form.

Mr. RICE. We understand it is a mortgage.

Mr. ORCHARD. I think the Senator asked did he have an interest and you asked did he have a mortgage. That is what I understand your question to be now.

Mr. RICE. Yes.

Mr. ORCHARD. Has he answered that question, Mr. Reporter?

Mr. RICE. We understand that the mortgage is now paid.

The REPORTER. No; he hasn't answered.

Mr. ORCHARD. Answer that last question.

Mr. MARCELLO. I refuse to answer the question on the ground that it may intend to criminate me.

Mr. RICE. Have you ever loaned the Gretna Seafood Co. several thousand dollars?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to criminate me.

Mr. RICE. Have you held a mortgage on Nelson's Roof Terrace, at Gretna?

Mr. MARCELLO. I refuse to answer the question on the ground that it may intend to criminate me.

Mr. RICE. Have you ever been connected with the Southern News Service?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to criminate me.

Mr. RICE. I invite your attention to the fact that the Southern News Service ceased doing business on or about January 1, 1947. Do you still refuse to answer?

(Mr. Marcello nods "Yes.")

Mr. ORCHARD. Say "Yes."

Mr. MARCELLO. Yes.

Mr. RICE. Do you have any interest in a used car business?

Mr. MARCELLO. I refuse to answer the question on the ground that it may intend to criminate me.

Mr. RICE. Have you financially assisted Mickey Gardelli?

Mr. MARCELLO. I refuse to answer the question on the ground that it may intend to criminate me.

Mr. RICE. In 1948, did you make a statement that you had a one-third interest in the Dixie Coin Machine Co.?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to criminate me.

Mr. RICE. Now, sir, do you have the following telephones, listed to you?

Mr. MARCELLO. I refuse to answer the question—

Mr. ORCHARD. Wait, wait. Let him finish.

Mr. RICE. Algiers 5777. Is that your telephone?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to criminate me.

Mr. RICE. Algiers 2171?

Mr. MARCELLO. I refuse to answer the question on the ground that it may intend to criminate me.

Mr. RICE. Chestnut 7122?

Mr. MARCELLO. I refuse to answer the question. It might intend to criminate me.

Mr. RICE. Tyler 3307?

Mr. MARCELLO. I refuse to answer the question on the ground that it may intend to criminate me.

The CHAIRMAN. Now, Mr. Counsel, what is the purpose of asking about the telephone numbers? Do you have records of telephone conversations with people in interstate commerce?

Mr. RICE. Yes. We have toll calls made from those telephones to certain individuals.

Mr. ORCHARD. I would like to inquire of counsel if there is any record of who made those toll calls, whether this defendant made them?

The CHAIRMAN. I was asking counsel if he was going to bring out who they were to or some of the people they were to or from.

Mr. ORCHARD. Anybody can make a toll call from a number.

Mr. RICE. Did you not recently make a person-to-person telephone call to Harry Brooks, associate of Mickey Cohen?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to incriminate me.

Mr. RICE. Did you not call Harry Brooks at the time he was in Texas recently?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to incriminate me.

Mr. RICE. Did you not recently make a person to person telephone call to Joe Savela in Dallas, Tex.?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to criminate me.

Mr. RICE. Did you recently make a person to person telephone call to Vincent Valloni, in Houston, Tex.?

Mr. MARCELLO. I refuse to answer the question on the ground that it may intend to criminate me.

Mr. RICE. Did you know Vincent Valloni?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to criminate me.

Mr. RICE. Do you know that Vincent Valloni was murdered?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to criminate me.

Mr. RICE. Do you know that Vincent Valloni was murdered subsequent to your telephone call?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to criminate me.

Mr. RICE. Do you know that the murderer of Vincent Valloni said that he killed him on instructions of Peter Duca?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to criminate me.

Mr. RICE. In a Mafia type killing?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to criminate me.

Mr. RICE. Have you recently made a person-to-person call to Sam Garras?

Mr. MARCELLO. I refuse to answer the question on the ground that it may intend to criminate me.

The CHAIRMAN. Where is Mr. Garras and who is he, so we can connect that?

Mr. RICE. Is not Garras—did you not call Garras in Dallas, Tex.?

Mr. MARCELLO. I refuse to answer the question on the ground that it may intend to criminate me.

Mr. RICE. Isn't Garras the brother of Dave Garras, the Chicago hoodlum?

Mr. MARCELLO. I refuse to answer the question on the ground that it may intend to criminate me.

Mr. ORCHARD. Senator, I think it is going far afield to call a man a hoodlum or nobody knows who he is. There is no record, or—

The CHAIRMAN. I think we have a considerable record, but we will just say "alleged."

Mr. ORCHARD. I think counsel is trying to have a Roman field day for the benefit of the city of New Orleans.

Mr. RICE. I think your client can probably clear up quite a few of these matters for us if he will explain the nature of the telephone calls and what his business transactions with these individuals were. We are perfectly willing to hear his explanation.

The CHAIRMAN. That is all right. Apparently he is not going into explanation of that.

Mr. GILL. Of course, may it please Your Honor, counsel is assuming the defendant knows all about that and can give an explanation.

Mr. KLEIN. Mr. Marcello, are you a member of the Mafia?

The CHAIRMAN. He answered that.

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to incriminate me.

Mr. ORCHARD. That has been asked him before.

The CHAIRMAN. He answered that.

Mr. ORCHARD. He's been asked that.

Mr. GILL. It hasn't been asked in those words, may it please Your Honor, but it has been asked and this would be another count.

The CHAIRMAN. All right, do you make any contributions to any political campaigns?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to incriminate me.

The CHAIRMAN. Did you ever give a bribe to a law-enforcement officer?

Mr. MARCELLO. I refuse to answer the question on the ground that it may intend to incriminate me.

The CHAIRMAN. Have you been making about eleven or twelve thousand dollars out of the Jefferson Music Co. each year?

Mr. MARCELLO. I refuse to answer the question on the ground that it may intend to incriminate me.

The CHAIRMAN. About 15 or 16 out of the New Southport Inn?

Mr. MARCELLO. I refuse to answer the question on the ground that it may intend to incriminate me.

The CHAIRMAN. Now, I see no reason to go on with a whole lot of this, unless you have something else?

Mr. RICE. Yes.

The CHAIRMAN. How about the Jefferson Music Co.? Does it pay you about \$25,000 a year?

Mr. ORCHARD. Gentlemen, I am going to object unless I know the source of those findings. If they are from the income-tax return, I think it is prohibited under the statute to divulge.

The CHAIRMAN. I was asking him whether he made anything out of the Jefferson Music Co. per year.

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to incriminate me.

The CHAIRMAN. Do you have any other questions? Let's get this over with.

Mr. RICE. Did you not, in September 1946, drive an automobile bearing Michigan license plates which were issued to John Missiudo of Detroit?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to incriminate me.

The CHAIRMAN. What is the purpose of that John Missiudo?

Mr. RICE. John Missiudo is a notorious hoodlum.

The CHAIRMAN. John Missiudo is somebody we have been investigating in Detroit.

Mr. RICE. That is correct.

The CHAIRMAN. What was the license number? Ask him what the license number was.

Mr. RICE. I don't believe we have that license, Senator, but we do have the license number of the car he was seen driving, Oklahoma plates 61-38 in 1948. This license was issued December 2, 1941, to William Stevens Mullins of Cherokee, Okla., by transfer from the State of Mississippi.

The CHAIRMAN. Ask him if he was driving that car.

Mr. RICE. Did you ever drive that car?

Mr. MARCELLO. I refuse to answer the question on the ground that it may tend to incriminate me.

The CHAIRMAN. I think we have asked enough.

In looking over this part of the report we were going to put in the record, I find that the latter part of it has some names about which I really don't have information, some few, so only the part of the report which is titled "Citizenship Status, Criminal Record" and "Brief Curricula of Information" consisting of two and a half pages will be put into the record and I will ask Mr. Kiley to see Mr. Gill, that you read it and also he can tell you some of the other reasons why we have been anxious to talk with Mr. Marcello.

Mr. ORCHARD. Of course, Senator, I would like it to be understood, of course, any part of that report that is incorporated in the record is not to be considered the testimony of this witness.

The CHAIRMAN. No, that is right. But I mean, Mr. Gill asked for some reasons why the questions were asked, and that part of the report gives the criminal record and also certain other parts, which will be put in upon the suggestion of Mr. Gill.

Mr. GILL. No, I am not asking anything be put in the record. I just wanted to see it, Senator.

The CHAIRMAN. Well, I misunderstood.

Mr. GILL. In fact, I object to anything going in the record other than the questions and answers of this defendant, this witness.

The CHAIRMAN. I had understood you wanted something in the record to show the reasons why we have asked these questions.

Mr. GILL. No, sir.

The CHAIRMAN. So anyway, the committee will order——

Mr. GILL. It was my thought at that time, Senator, we would have an adjournment.

The CHAIRMAN. Pages, the bottom part of pages 2, 3, and the top of page 4, and the committee will state further, to you, Counsel, that the committee has had quite an extensive investigation in which Mr. Marcello has played a very important part, in the State of Louisiana. The committee has information and reason to believe that he has had gambling, narcotics, and other kinds of operations with not only criminal characters in the State of Louisiana but in other parts of the United States; that he owns and has interest in quite a number of illegitimate businesses, illegal businesses and probably some legal businesses; that over a period of many years at which time he came here from Tunis, Africa, or he was born in Tunis, Africa, I believe in 1910, of Sicilian parents; that he came here in October 1910, that he has been engaged in many violations of law with various and sundry people from many parts of the United States; that he has had many meetings with criminal characters from other parts of the United States; investments in the Beverly Club, another club out here, I think, the Forrest Club, a racing news service, and many of the other organizations that counsel has asked about; that Mr. Marcello is one of the, according to the investigative reports, principal criminals in the United States today.

Mr. ORCHARD. Well, counsel will——

The CHAIRMAN. You were asking why we wanted to ask these questions, what the relevancy was; some I have told you sir.

Mr. ORCHARD. Counsel for Mr. Marcello, with due deference to the Senator, strenuously objects to his statement as being unfair, as being based upon an investigation which obviously may be hearsay, rumor, and without any basis in fact or in law, and I would like my objection to be noted in the record.

The CHAIRMAN. Your objection will be noted.

Mr. GILL. And in fairness to the defendant, may it please Your Honor, we would ask that that statement be stricken from the record and that the pages that Your Honor has there not be permitted to be introduced in the record. When I asked for them I wanted them as a point of information that we might converse with Mr. Marcello, and I thought an adjournment would then be had. Your Honor having proceeded, they are worthless to us. You have proceeded.

The CHAIRMAN. I didn't know. I thought you wanted the information about the relevancy of the questions.

Mr. ORCHARD. I think we ought to do this. At least we ought to get them, look at them, and talk with his brothers, come back here tomorrow and we might be able to proceed a little better.

The CHAIRMAN. I will tell you what we will do: Of course, his criminal record is a matter of public information; that about where he has served and what he has done. Beginning at bottom of page 2——

Mr. GILL. He was pardoned.

Mr. ORCHARD. He was pardoned, and nothing was said about that part of it.

The CHAIRMAN. To the bottom of page 4 will be made a part of the record.

The rest of it Mr. Kiley will go over with you, gentlemen, and give you a general idea about what we have.

Another reason we have been wanting to inquire of Mr. Marcello: it appears from the record that he is not a naturalized citizen; he is here as an alien, and that with all of his convictions, how he has managed not to be deported—

Mr. GILL. He was pardoned, I believe, Your Honor.

The CHAIRMAN. He was pardoned by Gov. O. K. Allen on one occasion. He made an application I think to the President of the United States for pardon on narcotics charge which was denied in 1948.

Mr. GILL. That is correct.

The CHAIRMAN. The record is long, the connections are bad, the implications according to our report are most sinister and we wanted to find out among other things what was the trouble with our naturalization and immigration laws that a man who is having such apparently a detrimental effect to law enforcement and to decency in the community, how he can continue to stay here.

Mr. ORCHARD. Senator, we are still going to renew our objections to your remarks.

The CHAIRMAN. If I have to go into the matter further, if you want Mr. Marcello to give any testimony, you may come in the morning.

Mr. Kiley, will you inform Mr. Gill and these gentlemen of some more details. Except for those three pages, the statement will be withdrawn. That is all now, gentlemen.

Mr. ORCHARD. Subject to our objection now.

The CHAIRMAN. Mr. Marcello, you will remain under subpoena subject to the further call of the committee. It must be very manifest that with all the vigor at the subcommittee's command, we will recommend that your contemptuous action before this committee be dealt with according to law.

Mr. MARCELLO. Thank you, sir.

Mr. GILL. If Your Honor please, may I state for the record, that from the questions asked this witness, particularly with reference to his alien status, it is very obvious as to why the witness who is untutored, doesn't have a good education at all, would refuse to swap intellect with the gentlemen of the committee. That is why I asked at the outset for such information as you may have. I say in all fairness, the repeated questions to this witness, after he stated at the outset that he wouldn't answer, should not in all fairness form more than the basis for one contempt, may it please Your Honor.

The CHAIRMAN. Well, now, I tell you, Mr. Gill, in looking over the records of what we have here in the file of the business transactions of this witness, he may be untutored, he may not be formally educated, but he has certainly got his fingers in a lot of businesses in very astute sorts of ways. He is pretty well able to take care of this himself. Besides—

Mr. ORCHARD. Are his brothers to come back tomorrow with Mr. Trapani?

The CHAIRMAN. He has two very eminent counsel representing him, I am sure.

Mr. RICE. You gentlemen represent the brothers, too?

Mr. ORCHARD. Yes, sir. We urge no objection to that last remark.

Mr. GILL. There was a man recently died who is in the banana business here; he lost his job when he was a young man because he couldn't read and write, but he was in a school in Canada. He lost his job, but the man left about \$90,000,000. Sometimes not being able to read and write is a good asset.

The CHAIRMAN. You will be here with the brothers tomorrow.

Mr. GILL. You want them in the morning?

The CHAIRMAN. At 9:30 in the morning.

(Witness excused.)

The CHAIRMAN. We have done very poorly by the other lawyers here. Now, let's see who is here and who has already brought records in and we will see if we can make some arrangements about when to come back.

Who represents Mr. Kastel?

Mr. JAMES O'CONNOR, JR. I do.

The CHAIRMAN. Mr. O'Connor, how would you like, let's say at 8 o'clock tonight? Are you tied up tonight?

Mr. O'CONNOR. I am at your convenience, sir.

The CHAIRMAN. We are going to have to have a night session.

Mr. O'CONNOR. I am at your convenience.

The CHAIRMAN. Suppose we say we will have your client at 8 o'clock tonight. Is that all right?

Mr. O'CONNOR. Yes, sir.

The CHAIRMAN. Thank you very much.

Mr. O'CONNOR. May I ask the Senator something, or counsel?

The CHAIRMAN. We will have a recess.

ANNEX II

The committee has received the following memorandum from its associate counsel, which sets forth the legal opinion of its staff with reference to the contempts committed by Carlos Marcello.

JANUARY 29, 1951.

Memorandum to Senator Estes Kefauver, chairman, re contempt of Carlos Marcello (S. Res. 78):

I have examined the record of the testimony of Carlos Marcello in addition to hearing it at the time it was given, and it is my opinion, which has previously been conveyed to the committee, that the refusal by Carlos Marcello to produce books and records, and to answer questions was contemptuous of the United States Senate and its Special Committee to Investigate Organized Crime in Interstate Commerce.

As associate counsel of the committee, with the advice and concurrence of the committee's legal staff, I have advised the committee and now certify that the contempts complained of are, in my opinion, punishable as a matter of law. In those instances where the witness asserted a claim of privilege, it is my opinion that the claim was not made in good faith inasmuch as there was no reasonable relationship between the questions asked and a line of proof which might incriminate the witness under any Federal statute.

In certifying contempt proceedings, this committee and its counsel have carefully distinguished between refusals to answer based on an arbitrary or fanciful claim of privilege from refusals to answer questions where a claim of privilege might be raised with even a minimum possibility that the witness might be incriminated under any of the laws of the United States.

Downey Rice, Associate Counsel.